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United States Senate

November 15, 1978

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Respectfully referred to:

Congressional Liaison
Department of State
Washington, D.C.

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY _____ DATE _____
EDS☐ or XDS☐ EXT. DATE _____
TS AUTH. _____ EXCEPTION(S) _____
ENDOSE EXEMPTIONS: ☐
DECLASSIFIED☐ RELEASABLE☑
RELEASE DENIED☐
PA or FOI EXEMPTIONS _____

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, along with return of the enclosure, will be appreciated by

PLEASE ANSWER MRS. STOEN DIRECTLY with a copy to this office. Thank you very much.

Senator Frank Church
U.S.S.

RECEIVED
DEPARTMENT OF STATE
'78 NOV 27 PM 3 02
BOUNDARY ANALYSIS

Form #2

re: Custody of John Victor Stoen in Guyana
Mom: Grace L. Stoen

(14)

c/o Jeffrey A. Haas, Attorney at Law
433 Turk Street
San Francisco, California 94102

[illegible] AM 11:43

5 November 1978

The Honorable Frank Church
United States Senate
245 Russell Building
Washington, D.C. 20510

Dear Senator Church:

I write to request your assistance in securing the return of my six year old son who is being held in Guyana by a fanatical group of United States citizens known as the People's Temple. I have exhausted all judicial remedies available in Guyana. After a year of litigation, the Guyana courts have refused to rule on the habeas petition filed by my attorney.

I have repeatedly sought the aid of the State Department. In the past year, through my attorneys, I have protested a series of blatant denials of justice by the Guyana courts. Included in this series of violations of the most basic notion of due process have been flagrant governmental interference with the enforcement of a preliminary court order, excessive delay in the rendering of judgment, and, finally, the refusal to render judgment. Please find enclosed copies of correspondence relating to these protests.

I believe that I am being denied justice in Guyana for two reasons: (1) the People's Temple, the fanatical group which holds my son is a large landowner which has poured a great deal of money into the country; and (2) the government fears reprisals if the court issues a ruling unfavorable to the People's Temple. Rather than risk upsetting this large group of fanatics, the courts have simply refused to rule.

I am informed that it is a basic principle of international law that a government has the duty to extend diplomatic protection to citizens whose rights have been violated. At stake here are the most basic of human rights. Yet the State Department has not shown the interest or concern that one routinely sees when the interests of United States corporations are short-changed by foreign governments.

Any effort you might make to persuade the State Department to assist me would be most appreciated.

Very truly yours,

Grace L. Stoen

Grace L. Stoen

Enclosures.

LAW OFFICE OF
JEFFREY A. HAAS
ATTORNEY AT LAW
433 TURK STREET
SAN FRANCISCO, CALIFORNIA 94102
(415) 775-3900

October 20, 1978

Mr. Douglas J. Bennet, Jr.
Assistant Secretary for
Congressional Relations
Department of State
Washington, D.C. 20520

Re: The custody of John Victor Stoen

Dear Mr. Bennet:

Once again, I write to request that the State Department assist my client Ms. Grace Stoen in regaining custody of her son John Victor Stoen. She has exhausted all legal remedies available to her in Guyana. The Guyana courts have disregarded her rights so blatantly, as to constitute a classic denial of justice.

As you may recall, in September of 1977, I went to Guyana to secure, pursuant to a Calfiornia court order, the return of five year old John Victor Stoen, a San Francisco resident, who was and is being held by the People's Temple.

I retained a respected Guyanese attorney, Clarence Hughes, to apply to the Supreme Court for an order returning the boy to his mother. On September 6, 1977, a Writ of Habeas Corpus was issued and Jim Jones, head of the People's Temple, was ordered to appear before the court on September 8, 1977. On September 8th, the court found that there was good cause to believe that Jones was intentionally evading Supreme Court Marshal William Blackman's attempts to personally serve him. Accordingly, alternate means of service of the Writ of Habeas Coupus was prescribed and Jones was ordered to appear in court with the child on September 10th. Jones failed to appear in court on September 10th. The court then made the child a ward of the court and ordered Jones arrest.

Events then ceased to follow the normal legal course. Despite numerous requests to counsel, the clerk of the court failed to sign and issue the warrant. It was my understanding as well as the stated position of the United States Embassy in Guyana that a high ranking official in the Guyana government has illegally instructed the clerk not to issue the warrant. The Embassy sent a diplomatic letter protesting this classic denial of justice to the Ministry of Foreign Affairs. I left Guyana on September 26th. The warrant was unsigned at that time and remains unsigned.

Subsequently, Joyce Touchette, a member of the People's Temple, asked to leave to intervene in the proceeding. Papers were filed by both sides and a short hearing on a technical point was held.

In January, 1978, I accompanied Mr. and Mrs. Stoen to Guyana to attend a hearing concerning several legal points raised by Ms. Touchette. The hearing was held over a period of approximately one week. At the conclusion of the hearing, the judge took the case under submission.

The case remained under submission until mid August, 1978. During this eight month period, on several occasions I protested the denial of justice that was occuring as a result of this excessive delay. (See my letters of March 6, 1978 and June 15, 1978).

In mid August, the Judge Bishop who had been presiding over the case, since it was originally filed in August, 1977 issued a statement in which he stated that he declined to render a decision because of "persistent efforts of an extra-legal nature" . . . .intended to influence the outcome of the proceedings. (See enclosed copy of the full text of the judge's statement which was reprinted in a Guyanese newspaper).

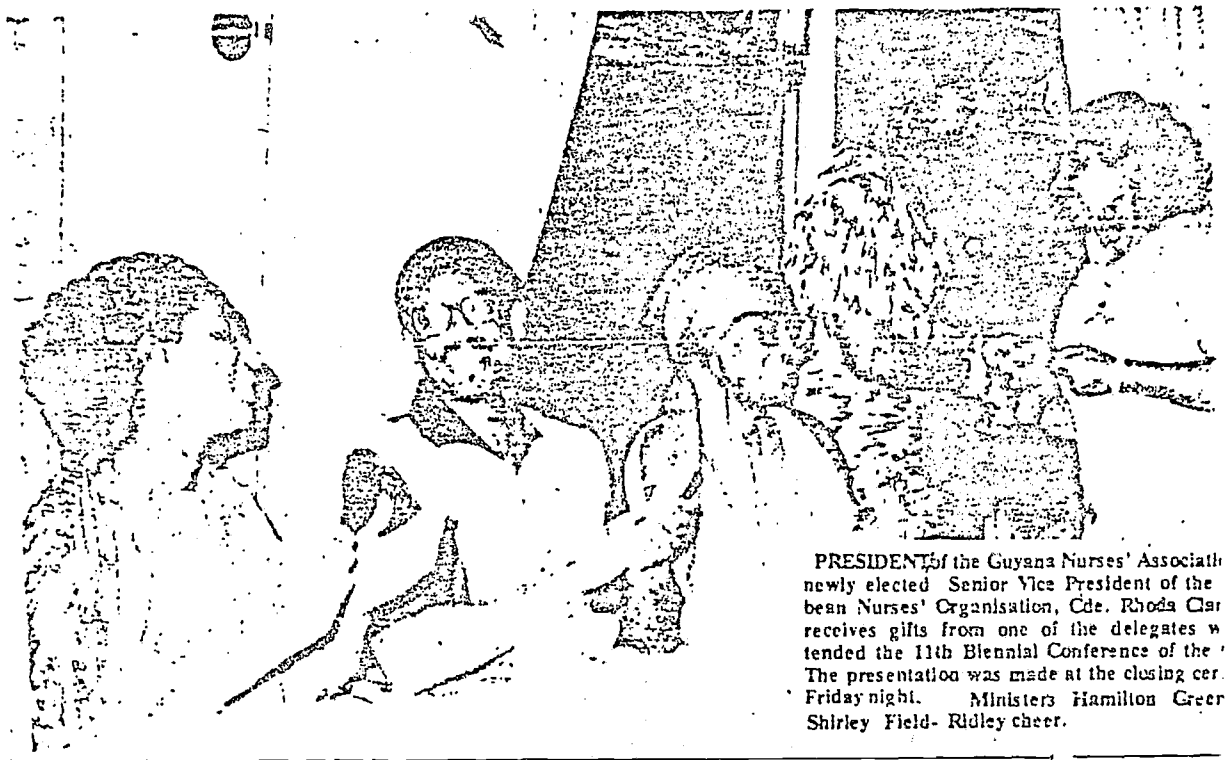
The court's refusal can only be seen as extreme instance of denial of justice. The State Department clearly has a duty to extend diplomatic protection to protect the rights and interests of the Stoen family. I hope it is not necessary for me to remind the Department that its duty is particularly clear where, as here, the rights violated are basic human rights.

I look forward to receiving assurances that the State Department will act promptly and effectively.

Very Truly Yours,

JEFFREY A. HAAS

JAH:dm
Enclosures.



PRESIDENT of the Guyana Nurses' Associati newly elected Senior Vice President of the bean Nurses' Organisation, Cde. Rhoda Cla receives gifts from one of the delegates w tended the 11th Biennial Conference of the The presentation was made at the closing cer Friday night. Ministers Hamilton Greer Shirley Field- Ridley cheer.

JUDGE HITS OUT AT MEAN, DESPICABLE ACTS, DECLINES TO HEAR CASE

High Court Judge Aubrey Bishop yesterday morning declined to hear a custody case involving a non-Guyanese child and non-Guyanese parties and referred the matter to the Chief Justice for re-assignment to another Judge.

The case was being heard in Chambers, but the Judge made a statement in open Court yesterday when the involved parties and their lawyers appeared before him again.

Following is the full text of the statement made by Justice Bishop:

"In this matter which concerns a non-Guyanese child and parties, there have been persistent efforts of an extra-legal or approbious nature, in the form of letters and other documents, as well as telephone calls, intended to influence the outcome of the proceedings, in favour of one side or the other.

"I consider those acts mean and despicable and feel obliged to decline adjudicating in the cause.

"I should say that earlier on I had summoned the lawyers for both parties to my Chambers, to inform them of the several attempts aimed at perverting the course of justice.

"I was satisfied then, and now, that they were not implicated in any way whatsoever in those attempts. They at all times discharged their professional obligations with commendable integrity and erudition.

"Each party will bear his own costs.

"The matter is referred to the Honourable Chief Justice for re-assignment." — H.V.

JUNE 15, 1978

DOUGLAS J. BENNET, JR.
Assistant Secretary for
Congressional Relations
Department of State
Washington, D.C. 20520

Dear Mr. Bennet:

I am enclosing an affidavit signed under penalty of perjury by Deborah Blakey. Ms. Blakey recently escaped from the People's Temple and is extremely concerned for the welfare of not only John Victor Stoen, but also the remaining U.S. citizens in Jonestown.

She points out that while the State Dept. has made some contact with American citizens living in Jonestown, its investigation to uncover the actual conditions is inadequate. I continue to regard this matter as extremely important, and again request your assistance in reaching some solution.

The Guyanese judge has now had a habeas corpus matter under submission for nearly five months. This is wholly unacceptable under any law with which I am familiar, and I think without question constitutes "excessive delay". Further, referring to paragraph (17) of the enclosed affidavit, Ms. Blakey makes it clear that the delay is due to Mr. Jim Jones threats of mass suicide.

I have been advised that the State Dept.'s legal advisor would be in contact with me regarding an interpretation of international law governing this case. Our position was enclosed with our letter of March 16, 1978. As of yet, I have received no response.

I look forward to your immediate attention to this most critical situation.

Very truly yours,

JEFFREY A. HAAS

JAH/kh

Enclosure

April 14, 1978

Dear Mr. Haas:

I have been asked to reply to your letter of March 16 addressed to Assistant Secretary Douglas J. Bennet, Jr. I regret that you found our responses to congressional inquiries on the John Victor Stoen custody case unsatisfactory.

The attorney's favorable opinion expressed in these responses is that of Clarence Hughes, the Stoens' attorney in Guyana.

On February 24 the American Consul in Georgetown, Guyana met with the new Minister of Justice, Mohamed Shahabuddeen who stated that child custody cases are civil disputes and there is no legal requirement that hearings be scheduled within a specific time period. Further, the Minister indicated that a judge's written opinion may take at least four months to compose and release. Consequently, the delay to date in this case is not considered excessive.

The Department appreciates the Stoens' desire to be reunited with their son. Although the Department cannot intervene in this case, it will continue to take appropriate measures to ensure that the decision is reached fairly and in accordance with the laws of Guyana.

I am forwarding a copy of your letter to the Department's Office of the Legal Advisor for comment on the issue of the interpretation of international law. If you have further questions, please contact our Office of Special Consular Services on 632-3015.

Sincerely,

Stephen A. Dobrenchuk
Chief
Emergency and Protection
Service Division

Jeffrey A. Haas, Esquire
3609 Sacramento Street
San Francisco, California 94118

March 16, 1978

Mr. Douglas J. Bennet, Jr.
Assistant Secretary for Congressional
Relations
Department of State
Washington, D.C. 20520

RE: John Victor Stoen

Dear Mr. Bennet:

As you may recall, I represent Ms. Grace Stoen in her effort to regain custody of her son, John Victor Stoen. In response to several congressional inquiries into this matter, you have both misstated an opinion which I have expressed as well as arrived at an inaccurate interpretation of international law. I wish to set the record straight on both these matters.

In early January of this year, I accompanied Mr. and Mrs. Stoen to Guyana to attend a hearing concerning several legal arguments raised by Ms. Joyce Touchette of the People's Temple. I am informed that the hearing was held over a period of a week. While the Stoens remained in Guyana for the entire period, I was present only the first day. I discussed the case at that stage with Mr. Richard McCoy, and informed him that the judge had decided in our favor on one of many points which were raised at that time. The precise reason that it was necessary to advise Mr. McCoy was because the judge had excluded him from the hearing.

My primary concern at that stage, which I discussed with Mr. McCoy, was whether the United States Government would tolerate continued Guyanese governmental interference with the court process in that country. As you may recall, it was necessary for United States representatives in Guyana to write a Diplomatic Letter complaining of alleged governmental interference. I do not know at this stage whether the Government is applying political pressure, but I remain suspicious.

I met with Mr. Frank Tumminia, who is on the Guyanese desk of the Department of State, just prior to traveling to Guyana. At that time, I provided him with our research concerning the legal question of the United States Government's responsibility to insure Mr. and Mrs. Stoen of a just and expedient resolution in this matter. Enclosed please find copies of these materials.

Referring to the Digest on International Law, at page 698, it is clear that the United States owes diplomatic protection to its nationals where there has been a denial of justice. A denial of justice has been defined as an unwarranted delay or obstruction of access to the courts. The Habeas Corpus in this matter was brought within the Guyanese system in September of 1977. It is Hornbook law that the Habeas Corpus proceeding, because of its intrinsic urgency, is entitled to top priority. It is nearly seven months since the motion was filed and we still have no court decision. In addition, our own representatives, as referenced above, have diplomatically noticed obstructive practices.

In conclusion, it seems clearly inconsistent that the State Department takes the position that there is little that can be done. Our system of justice, if it is to be respected, cannot tolerate this abuse. With the passage of time, your position in this matter becomes increasingly more irresponsible.

Very truly yours,

JEFFREY A. HAAS

JAH/ch
Enclosure

LAW OFFICE OF
JEFFREY A. HAAS
ATTORNEY AT LAW
3609 SACRAMENTO STREET
SAN FRANCISCO, CALIFORNIA 94118
(415) 922-6300

December 30, 1977

Douglas J. Bennet, Jr.
Assistant Secretary for
Congressional Relations
Department of State
Washington, D.C. 20520

RE: Reply to Douglas Bennet's Letter of December 9, 1977 to the Honorable Robert E. Duncan Concerning the Custody of John Victor Stoen

Dear Mr. Bennet:

I write to protest several statements made in the above-referenced letter. The letter states that during my recent visit to the Department that I talked at length about my belief "that the pending judicial proceedings were going to be unfair in some manner, unduly prejudicing the judge", and that I "was unable to be specific". The letter also states that "we have attempted to assure Mr. Haas and Ms. Ryan that in our experience Guyana is a country with a strong rule of law and that the judicial system there heretofore has not been unduly influenced by outside political interference."

Your letter suggests that the Guyanese desk has not provided you with full information concerning the facts of the case and the role the State Department has played to date. The Department's files should reflect that Mr. Haas went to Guyana on August 30, 1977 to secure, pursuant to a California court order, the return of five-year old John Victor Stoen, a San Francisco resident, who was and is being held by the People's Temple.

Mr. Haas retained a respected Guyanese attorney, Clarence Hughes, to apply to the Supreme Court for an order returning the boy to his mother. On September 6, 1977, a Writ of Habeas Corpus was issued and Jim Jones, head of the People's Temple, was ordered

to appear before the court on September 8, 1977. On September 8th, the court found that there was good cause to believe that Jones was intentionally evading Supreme Court Marshal William Blackman's attempts to personally serve him. Accordingly, alternate means of service of the Writ of Habeas Corpus was prescribed and Jones was ordered to appear in court with the child on September 10th. Jones failed to appear in court on September 10th. The court then made the child a ward of the court and ordered Jones' arrest.

Events then ceased to follow the normal legal course. Despite numerous requests of counsel, the clerk of the court failed to sign and issue the warrant. It was Mr. Haas' understanding as well as the stated position of the United States Embassy in Guyana that a high ranking official in the Guyana government had illegally instructed the clerk not to issue the warrant. The Embassy sent a diplomatic letter protesting this classic denial of justice to the Ministry of Foreign Affairs. Mr. Haas left Guyana on September 26th. The warrant was unsigned at that time and remains unsigned.

Despite the diplomatic letter of protest, neither the court nor the government took steps to countermand the wrong which had occurred. Subsequently, Joyce Touchette, a member of the People's Temple, asked leave to intervene in the proceeding. Since that time, papers have been filed by both sides and a short hearing held on a technical point. The major issue, the return of John Victor Stoen, remains unresolved.

Based upon the foregoing, Mrs. Stoen and Mr. Stoen, who has joined Mrs. Stoen in her struggle to regain custody of the boy, have reasonable grounds to fear that the denial of justice which has already occurred will not cure itself. I concur in Mr. & Mrs. Stoen's belief that they are well within their rights to request that the Department of State extend diplomatic protection to safeguard the best interests of their minor son.

As is noted in Whitman's Digest of International Law at page 698: "Intervention, on the one hand, and diplomatic protection or interposition on the other, are to be distinguished ... The right of diplomatic protection under international law has not been renounced or outlawed under recognized principles of international law." In order to conform to the requirements of §§179(2)(e) and §§180 of the Restatement of Foreign Relations Law, Rstmt 2, 1965, A.L.I. , "a trial or other proceeding to determine the rights or liabilities of an alien must be fair."

Further, it is clearly established that a denial of justice can occur prior to final decision on a case by the highest court." "Denial of justice exists where there is a denial, unwarranted delay or obstruction of access to the courts ..." Whitman,— supra, page 698.

I am sure that you can understand Mr. & Mrs. Stoen's distress when State Department representatives to whom their attorneys' inquiries are directed have no knowledge of what the State Department's previous position has been. In light of what has transpired to date, the case cannot be seen as a routine international child custody case. A referral to an international social service agency such as was made by Ms. Elizabeth Powers of Consular Services is no doubt helpful to parties in the ordinary case. However, it is difficult to understand how an international social service agency can persuade an interested high ranking Guyanese official to cease unwarranted interference in the courts.

The most basic of human rights are at stake. On behalf of Mr. & Mrs. Stoen, I urgently request that you reconsider the statements and positions taken in your letter of December 9th. I look forward to your reply.

Very truly yours,

Margaret Ryan

MARGARET RYAN

MR/kh

Washington D C 20520

December 9, 1977

Dear Mr. Duncan:

The Secretary has asked me to reply to your letter of November 23 concerning the case of John Victor Stoen, who is presently in the custody of a religious group known as The People's Temple, in Guyana. Congressman Phillip Burton has also expressed interest in this case and has received a similar reply.

As you mention in your letter, John Stoen's mother has engaged Attorneys Margaret Ryan and Jeffrey Haas to counsel her regarding court proceedings in Guyana to regain custody of her son. It is noted that Mrs. Stoen previously signed over custody of John to the religious group. Both Mr. Haas and Ms. Ryan have visited the Department of State to express their concern and to pose questions concerning the handling of a child custody court hearing in Guyana. While Mr. Haas was in Guyana for some preliminary court proceedings, he was in close touch with officers at the American Embassy there, who offered him every possible assistance, including personal representations by the Charge d'Affaires to high Guyanese government officials when Mr. Haas believed that political pressures were being brought to bear in the judicial system. Both Mr. Haas and Ms. Ryan agree that the American Embassy offered Mr. Haas all possible assistance during his visit to Guyana. Mrs. Stoen has also retained an attorney in Guyana to represent her. We are informed that the attorney was recommended by the Solicitor General of Guyana and that he enjoys a very good reputation in Guyana.

During Ms. Ryan's recent visit to the Department she talked at length about Mr. Haas's and her belief that the pending judicial proceedings were going to be unfair in some manner, unduly prejudicing the judge against their client. She was unable to be specific and was counseled to keep in close touch with the Embassy for any required assistance during the hearings.

The Honorable
Robert B. Duncan,
House of Representatives.

Neither the Department nor the Embassy can protest transgressions of normal court procedures which have not yet happened.

We have attempted to assure Mr. Haas and Ms. Ryan that in our experience Guyana is a country with a strong rule of law and that the judicial system there heretofore has not been unduly influenced by outside political interference. Should Mr. Haas, Ms. Ryan or their Guyanese representative believe that the hearing which is afforded them on behalf of Mrs. Stoen is not conducted in accordance with the local law, they should promptly bring any irregularities to the attention of the American Embassy.

During her visit to the Department Ms. Ryan had some doubt about her ability to satisfy a foreign judge about Mrs. Stoen's character or ability to provide a proper environment for her child. Ms. Ryan was provided information about international social service agencies which may be of assistance to her in that matter.

With respect to the basic question regarding custody, such orders issued by individual states in the United States have no validity outside the jursidiction of the court which issues them. The question of John Victor Stoen's custody can only be decided at this time by the competent court having jursidiction in his present place of residence, Guyana. Although the California court orders may be useful in the case in Guyana, the family must not expect that the hearing in Guyana is to enforce the California court order. The hearing in Guyana is to determine the custody of John Victor Stoen. His family and their attorneys must be prepared to discuss the basic custody matter with the court in Guyana and not expect that court to accept the decisions of a foreign (U.S.) court at face value.

For additional information about child custody cases please telephone Miss Elizabeth Powers of our Office of Special Consular Services on 632-3015.

Sincerely,

Douglas J. Bennet, Jr.
Assistant Secretary
for Congressional Relations